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In the Supreme Court of the United States

OCTOBER TERM, 1950

No. 569

JOY SILK MILLS, INC., PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

OPINIONS BELOW

The opinion of the court below (R. 168-180) is reported at 185 F. 2d 732. The findings of fact, conclusions of law, and order (R. 9-67) of the National Labor Relations Board are reported at 85 NLRB 1263.

JURISDICTION

The decree of the court below was entered on December 15, 1950 (R. 187-190). The petition for

a writ of certiorari was filed on February 20, 1951. The jurisdiction of this Court is invoked under 28 U. S. C. 1254, and under Section 10 (e) of the National Labor Relations Act, as amended.

QUESTIONS PRESENTED

1. Whether, as the court below held, the Board's findings of fact are supported by substantial evidence on the record considered as a whole.

2. Whether, in making an accommodation between the right of employees to be free from interrogation by the employer concerning their union activity, on the one hand, and the interest of the employer in obtaining evidence in preparation for an unfair labor practice hearing, on the other, the Board may properly require that the employer restrict his questioning of employees to matter which is relevant to the unfair labor practice in issue and is of sufficient probative value.

STATUTE INVOLVED

The pertinent provisions of the Labor-Management Relations Act, 1947 (61 Stat. 136, 29 U. S. C., Supp. III, 141, *et seq.*), are set forth in the Appendix, *infra,* pp. 23-24.

STATEMENT

Upon the usual proceedings under Section 10 of the Act, the Board, on September 13, 1949, issued its findings of fact, conclusions of law, and order (R. 9-67). In the court below, by stipulation

(R. 152-166), petitioner "admitted" the main body of the subsidiary findings "for purposes of review," (R. 152), so that, as the court explained (R. 171), petitioner's "primary challenge" was "to the ultimate conclusions of fact and law which have been reached by the trial examiner and the Board." The Board's findings of fact, as shown by the evidence and admitted by stipulation, and the Board's conclusions of law, may be summarized as follows. (The stipulated facts are designated by the symbol "St.")

In order to induce petitioner to recede from its plan to dismiss a popular foreman (St. 154), to which was later added the further objective of obtaining paid vacations (St. 154), the employees engaged in a short strike lasting from September 16 to 20, 1948 (St. 154-155). During the strike, 38 of petitioner's 52 employees signed membership cards authorizing the United Textile Workers of America, A. F. L., to bargain collectively for them (St. 154). Thereby a majority of the production and maintenance employees designated the Union as their bargaining representative (St. 156).

The signed membership cards were transmitted to Britton, state president of the A. F. L., who referred them to Jacobs, southern director of the Union, on September 19 (St. 155). Jacobs instructed Britton to communicate with petitioner in order to demand recognition and to inaugurate bargaining (R. 26; 102). Britton thereupon sent

a letter to Gilbert, petitioner's president, which stated that more than 30 percent of the employees had signed membership cards and that therefore the Union was proceeding to petition the National Labor Relations Board for an election (R. 82). When Jacobs received a copy of this letter on the 23rd, he recognized that it failed to include a clear demand to bargain "in terms required by the Board" (R. 26; 108).

The following morning, in order to perfect the demand to bargain, Jacobs personally telephoned Gilbert long distance and asked him to "recognize us as collective bargaining agent for production and maintenance employees at the plant because we had been authorized to represent them" (R. 27; 102).[1] Gilbert refused Jacobs' request for recognition, stating that in his opinion the Union's loss of an election held in 1946 settled the matter. Jacobs explained that, two years having elapsed, a new election was not precluded, and, in any event, since the Union presently represented a majority of the employees, it was within its rights to request collective bargaining now. As a means of substantiating the Union's majority status Jacobs proposed that the signed union cards be cross-

[1] Gilbert denied that Jacobs requested bargaining on this occasion (R. 122). The examiner discredited this testimony (R. 30); the Board affirmed the examiner, noting that "the importance of observation of witnesses to any finding of their credibility is such that we will not overrule the credibility findings of Trial Examiners unless they are clearly erroneous" (R. 10, n. 3); and the court below affirmed the Board (R. 174-175).

checked against petitioner's pay roll by an impartial person. Upon rejection of that method, Jacobs further suggested that a consent election be held. That too was rejected by Gilbert. He insisted that any election be conducted only after all formal Board processes had run their course. The conversation closed with Jacobs' statement that he would file an election petition with the Board (R. 27; 102, 103).

Immediately following this conversation, Jacobs filed a representation petition with the Board which stated among its allegations that the Union had "notified the employer of claim that a question concerning representation has arisen" and that "the employer failed to recognize" the Union (R. 27; Tr. 818). Gilbert was informed of this action by a long-distance call later that same day from Patterson, Field Examiner of the Board's Regional Office in Atlanta. Patterson asked whether Gilbert would agree to a consent election, but the latter preferred to consult his attorney before committing himself (R. 27; 123).

Field Examiner Patterson, in an effort to arrange a consent election, convened a meeting in the company's office on September 30, at which Manager Southerland and Henry J. Fox, attorney, represented petitioner, and Joseph Jacobs appeared for the Union (R. 28; 106, 144). Jacobs again asked for a cross-check but Fox declined the suggestion. However, tentative agreement was reached to hold a consent election, subject to the

petitioner's ascertainment that its operations were within the Board's jurisdiction. Toward the close of the conference, Jacobs declared, "Of course, we could obviate all of this if we would sit down and get a contract," to which no reply was made (R. 28; 111). On October 7, 1948 after petitioner was advised by counsel that it was subject to the Act, an agreement was entered into providing for the holding of an election on October 19 (R. 29; 106).

The Board found that beginning on October 12, within a week preceding the election, and continuing through the election, petitioner embarked upon a coercive course of conduct which "made a free election impossible" (R. 11). The Board further found that petitioner's conduct revealed that its rejection of the Union's request to bargain on September 24, and its insistence upon an election were motivated, not "by a good faith doubt of the Union's majority," but by a desire "to gain time within which to undermine the Union's support" (R. 12). Accordingly, the Board held that "a refusal [to bargain] took place on September 24, and from that time on, [petitioner] refused to bargain collectively within the meaning of Section 8 (a) (5) of the Act" (R. 11-12). In this respect the Board differed with its examiner, who was of the view that petitioner's bad faith began on October 12, the date of petitioner's first unfair labor practice, and that thereafter petitioner's "acts of interference and coercion . . . demonstrated

that whatever doubts [of the Union's majority] it had previously entertained were no longer genuine, that it no longer had reason to believe the Union's claim of a majority was untrue . . ., and that it sought to evade its obligation to recognize and bargain with the union" (R. 54).

The events upon which the Board and the examiner relied for their inferences of petitioner's bad faith are as follows:

Before the employees' organizational activity began, petitioner did not provide the employees with any rest period during which they could eat their lunch (R. 101, Tr. 88). Furthermore, although the employees had long been seeking such an arrangement, there was no system of shift rotation in the plant by which the swing and night shift employees would have an opportunity to work on the day shift at regular intervals, and its absence was responsible for employee dissatisfaction (R. 140, 141, 151).

On October 12, petitioner assembled its employees on company time to hear a lengthy anti-union speech prepared by President Gilbert and read on his behalf by K. F. (Fred) Carpenter, who was held out by petitioner "to its employees as its agent, and indeed as a part of its managerial staff" (R. 39).[2] In that speech Gilbert disparaged

[2] The subsidiary findings, on which the Board's ultimate conclusion that Carpenter was a management spokesman rests (R. 38-39), were stipulated (St. 158-159). In affirming this conclusion, the court below stated (R. 173): ". . . we think the Board clearly correct in finding petitioner responsible . . . for Carpenter's actions."

the need for a union, and for the first time he pledged that "as soon as equipment for the canteen * * * arrives, you will be given a rest period so that you may eat your lunches and relax in comfort during your shift" (R. 51; 91).

On October 18, the day before the election, Carpenter again delivered an anti-union speech prepared by Gilbert, similar in tenor to the first one (R. 93-100). This speech furnished the occasion for Gilbert's promise to remove the employees' dissatisfaction over the lack of shift rotation, for following the speech, employee Bessie Chapman asked Gilbert whether he contemplated instituting a system of shift rotation. Gilbert agreed to this action if desired by a majority of the employees (R. 115). This promise was reaffirmed by Superintendent Russell in a conversation with another employee, Vonceil Hollomon, some days later (R. 35; Tr. 501).

The Board concluded that these "promises of benefit because of their significant timing, were calculated directly to affect the decision of the employees on the issue of union representation," and were proscribed by Section 8 (a) (1) of the Act because they constituted a use of economic power "*for the purpose* of causing the employees to accept or reject a representative for collective bargaining" (R. 52).

In his capacity as plant superintendent, Russell had close and daily contact with the employees in the mill (Tr. 493). He admittedly held anti-union

views, and during the immediate preelection period he attempted to persuade employees to these views by reporting his own unsatisfactory experience as a former union member (St. 162, 163). During the course of this activity, Superintendent Russell engaged in the following conduct:

One or two days before the election, Superintendent Russell asked employee William Chapman, an oiler under his supervision, whether he had made up his mind concerning the vote he was to cast. When Chapman replied that he had, Russell "hoped that it was made up the right way." After informing Chapman that "you can't leave the union to become a foreman," Russell stated that a raise was pending for Chapman which might well be delayed or even retracted in the event of a union victory (St. 163). In similar fashion, a few days before the election, Russell interrogated employee Vonceil Hollomon concerning her attendance at a union meeting held some nights previously. Russell informed Hollomon that although voting for the Union would not endanger her job, it might well imperil her designation to the first shift (St. 163).

On October 18, the same day that President Gilbert's anti-union speech was read to the employees and only one day before the election, Russell questioned employees Henry D. O'Neal and Gwendolyn Beasley. Russell asked O'Neal about his union sympathy, and upon learning that O'Neal had attended a union meeting the day before, he

sought further information from O'Neal about the number of workers attending. O'Neal gave his estimate of the number of employees present, and Russell concluded the conversation by enjoining O'Neal to "let him know if he found out anything more." O'Neal promised he would do so. (R. 44-45; 115, 116, Tr. 242.) Russell similarly approached employee Beasley at her machine and asked her how many were present at the union meeting, what the Union promised, and whether the Union could give the employees anything he could not (St. 162, 163). Finally, the very morning of the election, Russell asked employee Jean Longrie the reason for her sudden interest in the Union (St. 162).[3]

The Board found that "the inquiries by Russell as to employees' interest in, views toward, and membership in the Union and as to how they intended to vote in the election; his inquiries as to union meetings and activities and his solicitation of employee assistance in obtaining such information; his implied threat that an employee would not receive a contemplated increase if the Union came in; his implied threat that if an employee voted for the Union, she would lose her shift; and his questioning of an applicant for employment as

[3] Russell continued with his antiunion activity even after the election. On December 21, 1948, in the course of interviewing Lois Gainey, who was an applicant for a job, he first informed her that openings existed, and then he interrogated her as to her opinion of the Union. The applicant replied that she lacked sufficient knowledge to express an opinion on this score. Shortly thereafter she was hired (St. 164).

to her union views," were coercive acts violative of Section 8 (a) (1) of the Act (R. 53, 54).

Management representative Fred Carpenter, who read President Gilbert's antiunion speeches on October 12, and 18 (*supra,* pp. 7-8), carried out their theme by engaging in coercive pressure directed against individual employees in the same fashion as did Superintendent Russell. On October 18, the day before the election and the same day as his antiunion speech, Carpenter approached employee O'Neal, as had Superintendent Russell (*supra,* pp. 9-10), and said, "you didn't tell me which way you were going to vote, for or against the union." When O'Neal failed to answer, Carpenter at first turned away, but then he returned and asked, "you like your job?" (St. 160). On the same day, Carpenter, visiting employee Edna Robbins at her machine, informed her of his surprise that she was a member of the Union, considering that her father (employed by another company in town) was not a union adherent (St. 160).

The next day, the very morning of the election, Carpenter continued this pressure, using as his frame of reference a newspaper article written by Westbrook Pegler which was unfavorable to union leadership in general (St. 159). He exhibited the clipping to various employees at their machines (St. 159, 160, 161), and requested them to read it so that they could inform themselves (as Carpenter put it) "of another angle of the union question

which possibly had not been presented" (St. 160). After Jean Longrie, the employee to whom Superintendent Russell expressed surprise because of her interest in the Union (*supra*, p. 10), had read the Pegler article, Carpenter warned her that "if the union came in, Mr. Gilbert probably would close down the mill and we would both be out of a job" (St. 160). In similar vein, while employee Robert Morris was performing his job, Carpenter interrogated Morris concerning how he intended to vote. Morris replied that this matter was his own business. Carpenter warned Morris against "going around telling people how to vote" (St. 160, 161).

The Board found that "the inquiries by Carpenter as to how employees would vote in the election and as to their union membership, views and attitudes; his threat that Gilbert probably would close the mill if the Union came in; and his implied threat to O'Neal that his job would be affected by his vote" were coercive acts violative of Section 8 (a) (1) of the Act (R. 53).

Counsel for petitioner, on March 10 and 11, 1949, submitted a questionnaire to a substantial number of employees who had worked for petitioner during September and October of 1948. The inquiry was made by petitioner's attorney in the course of his investigation of the facts alleged in the complaint and in his preparation of the case for the hearing (St. 164). The questionnaire, pertaining to the employees' union activity, contained 28 inquiries

(R. 79-81). The Board found that eight of these questions were in violation of Section 8 (a) (1) of the Act, since they elicited information outside the scope of the issues framed by the pleadings, and thus exceeded the privilege of inquiry afforded as an aid to trial preparation (R. 61).

The Board's order required petitioner to cease and desist from refusing to bargain collectively with the Union,[4] and to refrain from in any other manner interfering with, restraining, or coercing its employees in the exercise of the rights guaranteed by Section 7 of the Act (R. 13). Affirmatively, the Board's order required petitioner to bargain with the Union upon request and to post appropriate notices (R. 13).

The court below, Judge Miller dissenting, affirmed the Board's findings of fact and conclusions of law in full, and, Judge Washington dissenting, narrowed the scope of the Board's order to an injunction against the specific unfair labor practices found (R. 180 and n. 13).

ARGUMENT

1. In reviewing the substantiality of the evidence to support the Board's findings of fact, the court below stated that "the test now is whether there is 'substantial evidence on the record considered as a whole,' and it is that test which we shall apply to

[4] This remedy was clearly appropriate in view of the admitted fact (St. 156) that the Union had been designated by a majority of the employees as their bargaining agent before petitioner committed unfair labor practices to dissipate that majority.

the best of our ability and understanding" (R. 172). It is plain on the face of the court's thirteen-page opinion, which includes explicit citation to the record (R. 172-176), that the court subjected the record as a whole to careful scrutiny. There is, therefore, no occasion for this Court's further review, with respect to "a question which Congress has placed in the keeping of the Courts of Appeals," for it is clear that the standard of review has not "been misapprehended or grossly misapplied." *Universal Camera Corp.* v. *National Labor Relations Board,* No. 40, this Term, sl. op., p. 16. Nor is it material whether the court below believed that the standard of the review had been altered or not, because the court committed itself to neither view (R. 175-176). So long as "it is clear from the court's opinion in this case," as it is, "that it in fact did consider the 'record as a whole,' and did not deem itself merely the judicial echo of the Board's conclusion," *id.,* at pp. 16-17, exercise of this Court's supervisory authority is not warranted.

Petitioner relies (Pet. p. 9), as its sole basis for imputing error to the court below, upon the statement of that court that "The amendment [to the standard of review], like its predecessor, does not permit the court to weigh evidence or substitute its judgment for the Board's as to what conclusions are to be drawn from the evidence" (R. 171). The statement accurately anticipated this Court's opinion that the altered standard does not "mean that even as to matters not requiring expertise a court

may displace the Board's choice between two fairly conflicting views, even though the court would justifiably have made a different choice had the matter been before it *de novo.*" *Universal Camera Corp.* v. *National Labor Relations Board, supra,* at p. 13. The function of reviewing courts is to assure that "the Board keeps within reasonable grounds," and in the discharge of that function, the "Board's findings are entitled to respect." *Id.,* at p. 15. The court below in this case fulfilled that duty; and since petitioner in the court below stipulated its concurrence with most of the Board's subsidiary findings of fact (*supra,* pp. 2-3), there can be no serious quarrel with the general "reasonableness and fairness" of the Board's decision.

Finally, as to the difference between the Board and the examiner on a single issue of fact (*supra,* pp. 6-7), the court below stated that "Petitioner is correct in contending that where there has been a contrariety of opinion between the Board and the trial examiner (here both found a refusal to bargain, but differed as to when it occurred), the evidence must be examined with greater care than when both the Board and the trial examiner are in complete agreement" (R. 176). It is clear, therefore, that the court below did take into account the examiner's report when it held "that there was 'substantial' evidence, viewing the entire record, from which the Board could conclude that the original refusal of recognition was in bad faith" (R. 175). Moreover, since the Board's conclusion rested

upon an inference from subsidiary facts upon which there was no disagreement between the Board and the examiner, the fact in issue did not involve a "credibility" question upon which the "significance" of the examiner's report "depends largely." *Universal Camera Corp.* v. *National Labor Relations Board, supra,* at p. 21.

2. Petitioner does not contest the Board's conclusion (R. 55-61), affirmed by the court below (R. 177-178), that eight of the 28 questions it asked employees in preparation for the unfair labor practice hearing were not relevant to the issues framed by the pleadings and were without adequate probative value.[5] Its position is, therefore, that preparation for hearing accords it an unlimited privilege of inquiry into the union activity of employees. It is the Board's view, however, that in achieving a reasonable accommodation between the right of employees to be free from interrogation by the employer concerning their union activity, on the one hand, and the interest of the employer in obtaining evidence in preparation for an unfair labor practice hearing, on the other, the Board may properly require that the employer

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[5] The following are some of the questions which the Board and the court below found to be irrelevant (R. 58-61, 176-178):

7. What did you consider to be the purpose of signing the card?

8. Did you consider yourself a member of the Union when you signed the card?

25. Did you consider that these speeches or the statements and notices posted on the bulletin board were threats or promises of benefit to influence your vote against the Union?

restrict his questioning of employees to matters which are relevant to the unfair labor practices in issue and are of sufficient probative value.

The right of employees to be free from "questioning . . . concerning their labor sympathies" (*Heinz Co.* v. *National Labor Relations Board,* 311 U. S. 514, 518) is basic.[6] As recently restated by the Board, "Inherent in the very nature of the rights protected by Section 7 is the concomitant right of privacy in their enjoyment," and interrogation is incompatible with this " 'full freedom' from employer intermeddling, intrusion, or even knowledge." *Standard-Coosa-Thatcher Co.,* 85 NLRB 1358, 1360. "The employee who is interrogated concerning matters which are his sole concern is reasonably led to believe that his employer not only wants information on the nature and extent of his union interests and activities but also contemplates some form of reprisal once the information is obtained." 85 NLRB, at 1361. "Our experience," the Board continued, "demonstrates

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[6] See, *e.g., National Labor Relations Board* v. *Minnesota Mining and Mfg. Co.,* 179 F. 2d 323, 326 (C. A. 8); *National Labor Relations Board* v. *LaSalle Steel Co.,* 178 F. 2d 829, 835 (C. A. 7); certiorari denied, 339 U. S. 963; *National Labor Relations Board* v. *National Plastic Products Co.,* 175 F. 2d 755, 760 (C. A. 4); *National Labor Relations Board* v. *Sewell Mfg. Co.,* 172 F. 2d 459, 460-461 (C. A. 5); *National Labor Relations Board* v. *Arcade-Sunshine Co.,* 73 App. D. C. 128, 118 F. 2d 49, 50, certiorari denied, 313 U. S. 567; *Texarkana Bus Co.* v. *National Labor Relations Board,* 119 F. 2d 480, 483 (C. A. 8); *National Labor Relations Board* v. *Brown Paper Mill Co., Inc.,* 133 F. 2d 988, 989 (C. A. 5); *National Labor Relations Board* v. *A. L. Abell Co.,* 97 F. 2d 951, 955 (C. A. 4); *National Labor Relations Board* v. *Van Deusen,* 138 F. 2d 893, 895 (C. A. 2).

that the fear of subsequent discrimination which interrogation instills in the minds of employees is reasonable and well-founded. The cases in which interrogated employees have been discharged or otherwise discriminated against on the basis of information obtained through interrogation are numerous. These cases demonstrate conclusively that, by and large, employers who engage in this practice are not motivated by idle curiosity, but rather by a desire to rid themselves of union adherents." 85 NLRB, at 1362. Accordingly, the prohibition of interrogation preserves "the employees' right to privacy in their union affairs;" removes "a subtle but effective psychological restraint on employees' concerted activities"; and prevents "the commission of the further unfair labor practice of discrimination by condemning one of the first steps leading to such discrimination." *Ibid.*

The apprehension of an employee concerning the consequences of interrogation is not dispelled merely because the questioning takes place in the course of an employer's preparation for hearing. To the employee, particularly of an employer who has already demonstrated his strong union antipathy by coercive measures (*supra,* pp. 7-12), inquiry as to union activity may carry with it inevitable intimations of employer reprisal, which disclaimer is ineffective to dissipate even where the inquiry is made by a representative of the employer in his capacity as counsel. Nevertheless,

the Board recognizes a privilege of inquiry where the interview of employees is for the purpose of readying the employer's case for trial. The Board restricts the privilege to questions relevant to the issues framed by the pleadings and likely to elicit evidence of adequate probative value. The Board thereby strikes a fair balance between the need for protecting employees from employer intrusion on their union affairs and the need for according to the employer reasonable latitude in prehearing preparation. Cf. *Republic Aviation Corp.* v. *National Labor Relations Board,* 324 U. S. 793, 797-798. Thus, the restrictions placed upon the information allowably elicited by a litigant is grounded on a policy which seeks to accord counsel leeway in trial preparation, but which at the same time minimizes the risk of the attainment of an otherwise outlawed objective.

In approving "the standard established by the Board," and its application in this case, the court below stated it to be "a reasonable one, and aptly designed to carry out the purpose of the Act" (R. 177). Petitioner contends that the Board's standard and the court's approval of it erroneously rely on "expert knowledge in contradistinction to actual proof of coercion. . . ." (Pet. p. 11.) Petitioner fails to distinguish between "evidential facts" and "evidence as to the results which may flow from such facts." *Republic Aviation Corp.* v. *National Labor Relations Board,* 324 U. S. 793, 800. The record here contained the "evidential

facts"—eight questions about the employees' union activity which went beyond the issues of the pending unfair labor practice proceeding. That these questions could result in coercion of employees did not have to be proved, for the Board "may infer within the limits of the inquiry from the proven facts such conclusions as reasonably may be based upon the facts proven," and the inference drawn is entitled to weight because "made by experienced officials with an adequate appreciation of the complexities of the subject which is entrusted to their administration." *Ibid.* See also, *National Labor Relations Board* v. *Stowe Spinning Co.*, 336 U. S. 226, 231. The amendment of the standard of review does not "negative the function of the Labor Board as one of those agencies presumably equipped or informed by experience to deal with a specialized field of knowledge, whose findings within that field carry the authority of an expertness which courts do not possess and therefore must respect." *Universal Camera Corp.* v. *National Labor Relations Board, supra,* at p. 13.

Petitioner also contends that the standard places "an unprecedented and unwarranted burden upon counsel in preparing petitioner's defense to the allegations of the complaint." (Pet., p. 12.) It is difficult to accept the suggestion that questions of relevancy and probative value of evidence are beyond the capacity of counsel to cope with. Actual experience with the administration of the standard has disclosed no hardship. Since its inception in

1943 (*N. & W. Overall Co.*, 51 NLRB 1016, 1022), only four cases have arisen involving it, including the present case, and in all the cases except this one, the employer was exonerated from the charge of exceeding his privilege of inquiry.[7] A standard giving rise to practically no litigation can hardly be censured as unworkable. And the consequence of rejecting the standard is to give the employer an unlimited license to probe the union activity of his employees.

The standard adopted by the Board is a reasonable reconciliation between conflicting interests; there is no conflict of authority; and the paucity of litigation concerning it shows the insubstantiality of the issue. Accordingly, no further review is warranted.

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[7] *N. & W. Overall Co.*, 51 NLRB 1016, 1022; *May Department Stores Co.*, 70 NLRB 94, 95-96; *Southern Furniture Mfg. Co.*, 91 NLRB, No. 189.

CONCLUSION

For the reasons stated, it is respectfully submitted that the petition for certiorari should be denied.

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APRIL, 1951.

APPENDIX

The relevant provisions of the Labor Management Relations Act, 1947, (61 Stat. 136, 29 U. S. C., Supp. III, 141, et seq.), are as follows:

* * * * *

SEC. 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8 (a) (3).

SEC. 8. (a) It shall be an unfair labor practice for an employer—

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7;

* * * * *

(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9 (a).

* * * * *

SEC. 10. * * *

* * * * *

(e) The Board shall have power to petition any circuit court of appeals of the United States (including the United States Court of Appeals for the District of Columbia), or if all the circuit courts of appeals to which application may be made are in vacation, any district court of the United States (including the District Court of the United States for the District of Columbia), within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceedings, including the pleadings and testimony upon which such order was entered and the findings and order of the Board. * * * The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. * * * The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347).

☆ U. S. GOVERNMENT PRINTING OFFICE: 1935 [illegible]